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LETTER DATED 31 OCTOBER 1996 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF ZAIRE TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Acting on instructions from my Government, I have the honour to transmit to you, for the information of members of the Security Council, a note giving a chronological account of the aggression being perpetrated against the Republic of Zaire in the eastern part of its territory.

This note establishes the truth regarding the said aggression and corrects the lamentable and deliberate untruths disseminated in document S/1996/869 of 23 October 1996.

I should be very grateful if you would have this letter and its annex circulated as a document of the Security Council.

Annex

Noted dated 29 October 1996 from Zaire in reply to the letter dated 23 October 1996 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council (S/1996/869)

Chronological account of the crisis

PART I. NORTH KIVU

1. On 1 August 1885, the authorities of the Congo Free State (CFS) transmitted to the Powers that were signatories to the Berlin General Act a Declaration of Neutrality to which was appended a map clarifying the boundaries of CFS (map appended).

The limits of eastern Zaire are defined as follows:

"To the east

"Longitude 30° east of Greenwich as far as latitude 1°,20' S;

"A straight line drawn from the intersection of longitude 30° E and latitude 1°20' S to the northernmost tip of Lake Tanganyika;

"A line down the centre of Lake Tanganyika."

1886	Rwanda becomes a German Protectorate.
1898-1910	A disagreement between CFS and Germany ends with negotiations between the following Powers: Belgium, Germany and the United Kingdom. In fact, the Belgian Government which had succeeded to CFS, felt, quite rightly, that the boundary of eastern Congo in the section contiguous to the German protectorate of east Africa, of which Rwanda was a part, should be determined solely by the Declaration of Neutrality approved by Prince Bismarck.
11 August 1910	Under the German-Belgian Convention of 11 August 1910 and that of 14 May 1910 with the United Kingdom, Belgium loses a portion of territory equal to almost half of present-day Rwanda the part to the west of the boundary outlined in the Declaration of Neutrality which Germany had accepted up to the present boundary. Since Zaire is the successor to the Belgian colonial State, it is present-day Zaire (formerly the Congo) which lost a portion of its territory that had been internationally recognized by the Berlin General Act to present-day Rwanda;

	that territory includes the town of Gisenye, Ruhengeri and Cyangugu (shaded area).
1918	After the First World War (1914-1918), the League of Nations gave Belgium a mandate over Rwanda.
1924	People begin to migrate from Rwanda to the Congo.
1937	The Banyarwanda Immigration Mission (BIM), an agency of the Belgian colonial administration in the Congo, settles 354 Rwandan immigrants (Tutsis) in the Congo to supervise Hutu immigrants in Buhunde (Masisi territory, Mokoto plateaux).
From 1937 to 1945	Some 25,450 people, mostly Hutus, are settled in Gishari, Masisi territory.
31 December 1957	According to the report submitted by the Belgian administration to the Trusteeship Council, a total of 74,878 people had migrated from Rwanda to the Congo. The migration occurred following recurrent famines in Rwanda (1943); the people went to work in the plantations of the Belgian settlers.
1959	Ethnic cleansing is practised by Rwandans (Tutsis and Hutus) and has been going on in their country since 1959. The troubles in the north Kivu and south Kivu regions of Zaire are not ethnic cleansing carried out by Zairians against anyone, but rather aggression from Rwanda and Burundi.
1960	Belgian Congo becomes independent. The Constitution stipulates that "any person one of whose forebears is or was a member of one of the tribes established in the territory of the Republic of the Congo as delimited on 1 August 1885 and as amended by subsequent conventions, is Congolese".
1972	Bisengimana Rwema, the former chief of staff of the President of the Republic who is himself a Rwandan (Tutsi) refugee, has an order signed, the purpose of which is to grant Congolese nationality collectively to Tutsi refugees who have gone to Zaire since 1959.
1981	Zaire passes a new law on nationality which provides, in article 4, that: "According to article 11 of the Constitution, as of 30 June 1960, any person one of whose forebears is or was a member of one of the tribes established in the territory of the Republic of Zaire as delimited on 1 August 1885 and as amended by subsequent conventions is Zairian."

This Zairian law defines the conditions whereby anyone who does not meet the requirements for recognition of nationality of origin may acquire Zairian nationality through the individual rather than collective naturalization procedure.

1994 Between 1990 and 1994, ethnic massacres, culminating in genocide following the assassination of President Habyarimana, were carried out by Rwandans against other Rwandans.

1996 The confrontations between Tutsis and Hutus living in Masisi and the serious incidents in Mokoto monastery were carried out by Rwandan refugees (former Tutsis against the Hutu refugees of 1994). The indigenous Hunde population and the forces of law and order intervened to protect the Tutsis.

PART II. SOUTH KIVU

1. A number of Tutsi immigrant families are reported to have arrived, not in the sixteenth century, but around 1896, fleeing the reprisals and tyranny of the Mwami of Rwanda, Yuhi IV Musinga, and to have been received by Mwami Nyamuyira, who granted them asylum in Kakamba (Ruzizi Plain) before they settled in Mulenge.

2. The first sizeable group of Tutsi immigrants, however, arrived in South Kivu around 1924.

3. The Rwandan Tutsis today calling themselves "Banyamulenge" did not settle in the high plateaux of Itombwe until between 1959 and 1962, following the interethnic troubles which plagued Rwanda on the eve of its independence.

4. It is of interest to recall here the message which the administrator of the United Nations Operation in the Congo, the delegate of the International Committee of the Red Cross (ICRC) and the delegate of the United Nations High Commissioner for Refugees (UNHCR) conveyed to the Rwandan refugees who had settled on the hills of Lemera, Mulenge and Katobo. It is heartening to note that the three officials representing the United Nations, UNHCR and the ICRC addressed the Rwandan refugees in Lemera, Mulenge and Katobo in the following terms:

> "Rwandan refugees, you are isolated at this time. The bridges have been cut and there are roadblocks, which is why we cannot visit you. However, we hope that calm will soon return to your region. Until such time as it does, we ask you to remain strictly neutral. You have been given asylum in the Congo on condition that you do not concern yourselves with politics at all. If someone asks you for your support, you must answer that, as strangers, refugees and guests in the Republic of the Congo, you cannot or you must not take part in any political movement whatsoever. Remain calm. Continue to work as before, following the advice

of your agronomist. Everyone should remain at his post and above all should steer clear of politics."

5. The Mulenge in question is a village situated in the Bafulero community, the members of which are its only inhabitants. It is not normal that the name of this village should today be replaced by the name of a tribe which has never existed in Zaire.

If this is allowed to happen, tomorrow there will be "Banyakashusha", after the site of Kashusha currently sheltering the Hutu refugees who settled there in 1994.

It is curious that the Rwandan Tutsis change their tribe according to their place of shelter. For example, they call themselves "Banyamulenge" in Fizi, Mwenga and Uvira and "Banyavyura" in Moba au Shaba, Vyura.

The term "Banyamulenge" was invented and used for the first time in 1977 by Mr. Gisaro, a Rwandan Tutsi immigrant.

Subsequently, all the Rwandan Tutsis who had settled in the vicinity of Fizi, Mwenga and Uvira adopted the name for the sole purpose of extinguishing their true Rwandan origin and claiming Zairian nationality.

6. The tribes making up the Republic of Zaire, then the Congo, were there at the time of the Berlin Conference in 1885. It was those tribes which on 30 June 1960, when the colonial Power departed, were living within the national borders inherited from colonial days. The descendants of the members of those tribes are automatically of Zairian origin. All immigrants have the option of applying for naturalization.

7. Since the country's accession to independence, no new tribes have been created by the Zairians.

8. Consequently, regardless of certain claims advanced, the Banyamulenge are not a tribe of Zairians of Rwandan origin speaking the Kinyarwanda language.

9. These claims, which are defended in particular by Mr. Roberto Garretón, United Nations Special Rapporteur on the situation of human rights in Zaire, are putting the weight of the United Nations behind some historical errors and are therefore misleading the entire international community and exacerbating the conflict between the indigenous population and the immigrants.

10. This question is all the more serious because neither the Special Rapporteur nor the Commission on Human Rights, which appointed him, is competent to deal with nationality, a matter which falls within the exclusive sovereign power of States and which in this instance is governed by the laws and Constitution of the Republic of Zaire.

CONCLUSION

The alleged integration of part of Rwanda into Zaire in 1910

After the Berlin Conference in 1885 the only region which was the subject of dispute between Zaire and Rwanda was the Rift Valley, which cuts through East Africa in a north-south direction over a distance of approximately 12 degrees latitude and along which Lakes Tanganyika, Kivu, Edward and Albert are spread.

The question was settled by the demarcation of the boundary in the heart of the Rift Valley, that is to say, between the valley of the Ruzizi River and Lake Kivu.

In determining this boundary, account was taken of indigenous political units of some importance, ethnographical divisions and geographical accidents themselves.

As a result of this demarcation, it was Zaire, not Rwanda, which lost, inter alia, Cyangugu, Gisenye, Ruhengeri and Nyakagunda, a vast expanse of territory equivalent in size to almost half of modern Rwanda.

Zaire, even though it was the victim of this situation, nevertheless subscribed to the principle of intangibility of frontiers inherited from colonial days, as set forth in the Charter of the Organization of African Unity and other relevant international instruments. No State, including Rwanda, has the right to challenge a principle which ensures the stability of the whole of Africa.

The number of "Banyamulenge" and the question of their nationality

In the 1950s approximately 6,300 Tutsis were counted in the high plateaux of Fizi, Uvira and Mwenga.

This population cannot have increased to between 250,000 and 400,000 persons today.

On the basis of an annual growth rate of 3.5 per cent over a period of 40 years, this population would have grown to only 32,450 in 1994.

According to current law in Zaire, the "Banyamulenge" who wish to obtain Zairian nationality must file an individual application. This is a matter within Zaire's sovereign power to decide.

Kinshasa, 29 October 1996